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March 4, 2024

VIA ECF

The Honorable Jessica G. L. Clarke
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Courtroom 20C
New York, New York 10007

Re: *Doe v. Black*, Case No. 1:23-cv-06418-JGLC

Dear Judge Clarke:

We represent Plaintiff Jane Doe (“Plaintiff”) in the above-captioned matter. We write this letter in response to Defendant Leon Black’s (“Defendant”) March 4, 2024 Notice of Supplemental Authority (ECF 85) concerning Judge Kaplan’s recent decision in *Bellino v. Tallarico*, No. 24-cv-0712 (LAK).

The decision in *Bellino* should not guide this Court’s decision in Black’s pending motion to dismiss (ECF 40) or his motion to stay discovery (ECF 74). First, the decision in *Bellino* was made based on an unopposed motion to dismiss. Second, the day following Judge Kaplan’s publication of the opinion, counsel for plaintiff immediately requested leave to oppose the motion, explaining that counsel did not receive a copy of the motion to dismiss when it was filed and therefore did not have an opportunity to oppose. Judge Kaplan has yet to rule on the request for leave to oppose. Third, it is our understanding that the plaintiff intends to move for reconsideration of Judge Kaplan’s decision given that she did not have an opportunity to oppose the motion. Further, counsel for plaintiff intends to provide the Court with authority showing that, among other things, defendant’s preemption arguments are counter to binding precedent set forth in *Engelman v. Rofo*, 194 A.D.3d 26 (1st Dep’t 2021) and *Doe v. Gooding*, No. 20-cv-06569 (PAC), 2022 WL 1104750 (S.D.N.Y. Apr. 13, 2022). The decision in *Bellino* is therefore likely to be withdrawn or appealed. Accordingly, that decision should not guide this Court’s decision in Black’s pending motion to dismiss, as well as his motion to stay discovery.

Sincerely,



Jeanne M. Christensen

cc: All counsel of record (via ECF)